

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

RICKY RONNELL EWING

PLAINTIFF

v.

CAUSE NO. 1:16CV121-LG-RHW

DARLENA FROST

DEFENDANT

**ORDER ADOPTING PROPOSED FINDINGS OF FACT AND
RECOMMENDATION AND REVOKING IN FORMA PAUPERIS STATUS**

BEFORE THE COURT is the Proposed Findings of Fact and Recommendation [24] entered by United States Magistrate Judge Robert H. Walker in which he recommends that the in forma pauperis status of the plaintiff Ricky Ronnell Ewing be revoked. Ewing has filed an Objection. After reviewing the record in this matter and the applicable law, the Court finds that the Proposed Findings of Fact and Recommendation should be adopted as the opinion of this Court.

DISCUSSION

Ewing filed this lawsuit claiming that he was attacked by two other inmates while incarcerated at the South Mississippi Correctional Institution. This Court granted Ewing leave to proceed in forma pauperis on May 6, 2016. (Order, ECF No. 5). Judge Walker recommends revocation of Ewing's in forma pauperis status, because three other lawsuits filed by Ewing have now been dismissed. *Ewing v. Jone*, No. 1:15cv254-HSO-JCG, was dismissed as malicious on February 1, 2016. *Ewing v. Cooley*, No. 1:15cv277-HSO-JCG, was dismissed as frivolous on April 11, 2016. Claims asserted in *Ewing v. Richie*, No. 1:16cv90-HSO-JCG, were dismissed for failure to state a claim, and a final judgment was entered on February 23, 2017.

28 U.S.C. § 1915(g) provides:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted

Ewing filed an Objection to Judge Walker's Proposed Findings of Fact and Recommendation, but he did not dispute Judge Walker's finding that Section 1915(g) precludes him from proceeding in forma pauperis. He merely argues that his lawsuit should not be dismissed for failure to exhaust administrative remedies.

Having conducted the required review of the issues presented, the Court finds that Ewing has failed to show that the Section 1915(g) bar should not apply to this lawsuit. The Court will adopt Judge Walker's recommendation that Ewing's in forma pauperis status be revoked pursuant to 28 U.S.C. § 1915(g). Ewing must pay the \$350.00 filing fee plus the \$50.00 administrative fee within thirty days of the date of this Order to avoid dismissal of this lawsuit. Ewing is warned that failure to timely pay these fees will result in an order of dismissal for failure to prosecute pursuant to Fed. R. Civ. P 41(b) without further notice.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Proposed Findings of Fact and Recommendation [24] entered by United States Magistrate Judge Robert H. Walker is **ADOPTED** as the opinion of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that Ewing's in forma pauperis status is hereby **REVOKED**. Ewing must pay the Clerk of the Court the required filing fee and administrative fee within thirty days of the date of this

Order. Failure to do so will result in dismissal of this lawsuit for want of prosecution under Fed. R. Civ. P. 41(b).

SO ORDERED AND ADJUDGED this the 5th day of April, 2017.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE